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**GAO**

Report to Congressional Requesters

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September 1994

# SUPERFUND

## EPA Has Opportunities to Increase Recoveries of Costs



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United States  
General Accounting Office  
Washington, D.C. 20548

Resources, Community, and  
Economic Development Division

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September 28, 1994

The Honorable John D. Dingell  
Chairman, Committee on Energy  
and Commerce  
House of Representatives

The Honorable Al Swift  
Chairman, Subcommittee on  
Transportation and Hazardous  
Materials  
Committee on Energy and Commerce  
House of Representatives

The Congressional Budget Office has projected that Superfund—the Environmental Protection Agency's (EPA) program to clean up the country's worst hazardous waste sites—could need \$75 billion to clean up a total of 4,500 Superfund sites.<sup>1</sup> So far, the Congress has authorized \$15.2 billion for the Superfund program. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) gives EPA two ways to supplement federal funding for cleanups. First, EPA can attempt to compel the parties that contaminated Superfund sites (responsible parties) to clean them up. Second, EPA can recover the costs it has incurred to clean up sites from the parties that contributed to contaminating them. The success of these efforts will largely determine EPA's costs for the Superfund program.

In light of concerns about funding for Superfund and in anticipation of a comprehensive reauthorization of the program, you asked us to (1) provide information on EPA's settlement and cost recovery programs and (2) identify the factors that inhibit EPA from recovering its costs. In addition, you asked us to provide historical data on settlements and cost recoveries, which are included in appendixes I and II.

## Results in Brief

EPA's efforts to compel responsible parties to clean up hazardous waste sites have been successful. In fiscal year 1993, EPA entered into settlements with responsible parties for cleanups valued at \$910 million. These settlements include 80 percent of the long-term cleanups started that year. However, EPA's efforts to recover costs from responsible parties when the

<sup>1</sup>The Total Costs of Cleaning Up Nonfederal Superfund Sites, Congressional Budget Office (Washington, D.C.: Jan. 1994). The \$75 billion is in discounted present-worth dollars.

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agency has cleaned up a site have not been as productive. EPA has reached agreements with responsible parties to recover only \$1.2 billion of the \$8.7 billion it expended on the Superfund program through fiscal year 1993.

Several factors account for EPA's low rate of cost recovery. First, EPA has defined recoverable indirect costs narrowly, thus excluding from its recovery efforts \$2.9 billion, or one-third of the \$8.7 billion it spent. The excluded indirect costs include costs for research and development and for the preliminary work to assess whether a site should be included in the Superfund program. Although EPA has been considering broadening its definition of recoverable indirect costs since 1988 and proposed a rule to accomplish this in August 1992, the agency has not set a date for adopting a final rule.

Second, EPA has not established goals for taking timely action on cost recovery cases or for recovering a specified percentage of its costs. In addition, EPA has not developed information that would help it better manage the program, such as data on cost recovery efforts and on the results of negotiations. Such data would be useful in tracking progress and identifying areas needing improvement.

In addition to recovering a greater portion of its costs, EPA could charge higher interest rates on the costs it recovers if certain provisions of CERCLA were modified. EPA is currently losing millions of dollars annually because CERCLA limits the interest that EPA can charge.

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## Background

CERCLA authorizes EPA to either enter into settlements with responsible parties to clean up sites or recover its cleanup costs from the parties. EPA first attempts to reach agreements with the responsible parties under which these parties will conduct a cleanup. If settlements are not reached, EPA can conduct the cleanup, using Superfund money, and take enforcement action against the responsible parties to recover its costs. While CERCLA makes responsible parties liable for cleanup costs, it does not specifically identify which costs are recoverable.

As appropriate, EPA cleans up contamination at sites through either a removal or a remedial action, or a combination of both. Removal actions are usually short-term cleanup actions taken when an immediate response is required to address the release or threatened release of a hazardous substance. Remedial actions are long-term actions that remove threats to

public health, welfare, or the environment. EPA considers that its removal costs should be recovered when it completes the removal. EPA considers remedial costs recoverable when it initiates the construction of the cleanup remedy at the site.

Under CERCLA's statute of limitations provisions, EPA must generally file suits to recover costs within 3 years after it completes a removal or within 6 years after it starts a remedial action. If EPA undertakes both removal and remedial actions at the same site, it may have up to 9 years after the start of the removal to begin action to recover the costs.

In past reports,<sup>2</sup> we disclosed deficiencies in EPA's cost recovery and settlement programs. We noted the low rate of recovery and the low priority EPA gave to the cost recovery program. This low priority resulted in (1) a backlog of cost recovery cases, (2) a lack of adequate staffing for the cost recovery program, and (3) an inadequate information tracking system for measuring the program's progress.

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## Settlements for Cleanups Have Increased, but EPA's Cumulative Cost Recovery Rate Remains Low

EPA has been successful in its efforts to compel responsible parties to clean up hazardous waste sites. As shown in figure 1, the estimated value of settlements with responsible parties rose from \$207.5 million in fiscal year 1987 to more than \$1.5 billion in fiscal year 1992. According to EPA, the decline in the value of cleanup settlements in fiscal year 1993—to \$910 million—resulted largely from a decrease in the average cleanup costs for sites for which settlements were reached.

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<sup>2</sup>Superfund: More Settlement Authority and EPA Controls Could Increase Cost Recovery (GAO/RCED-91-144, July 18, 1991) and Superfund: A More Vigorous and Better Managed Enforcement Program Is Needed (GAO/RCED-90-22, Dec. 14, 1989).

**Figure 1: Estimated Dollar Value of Settlements, Fiscal Years 1987-93**



Source: GAO's illustration based on EPA's data.

EPA estimated that during fiscal year 1993, responsible parties initiated nearly 80 percent of the long-term cleanups at sites on its National Priorities List (NPL).<sup>3</sup> EPA attributes the success of its settlement program to its "Enforcement First" initiative, a policy it began in 1989. This initiative emphasizes getting responsible parties to perform the cleanups rather than having the government do them; the government then seeks reimbursement from the parties. Under the initiative, EPA increased its use of unilateral administrative orders,<sup>4</sup> increased the number of staff assigned to settle cases, and established stiffer penalties for uncooperative parties.

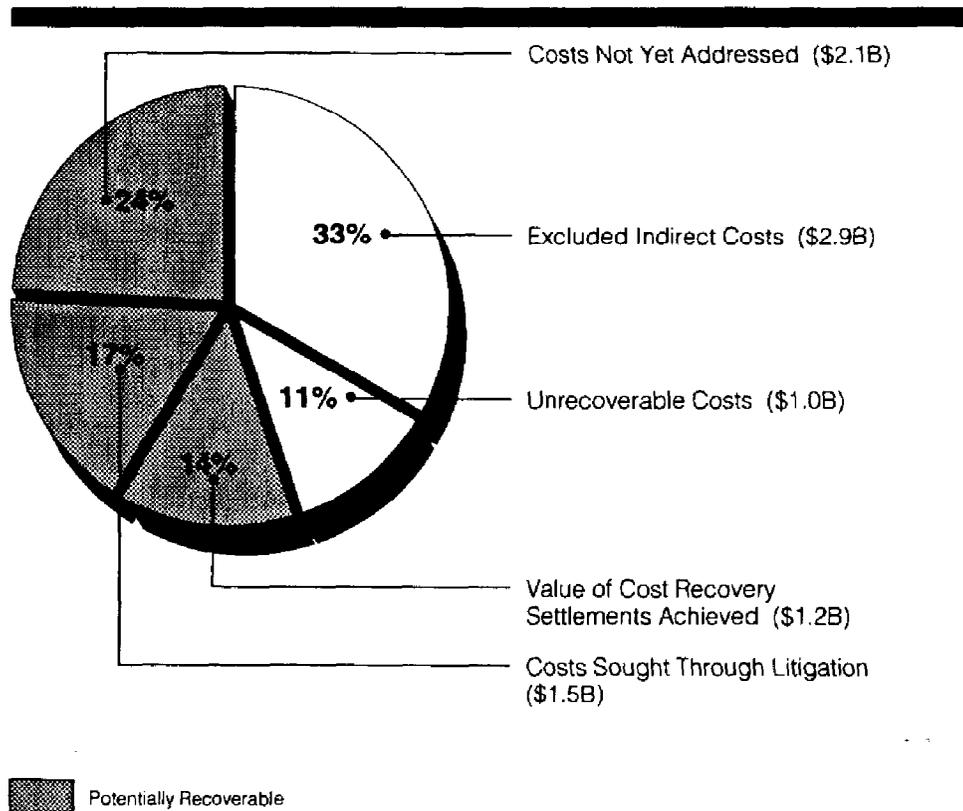
However, EPA has not been successful in its attempts to recover its cleanup costs. According to EPA's data, the agency spent \$8.7 billion in the Superfund program through the end of fiscal year 1993. (See fig. 2.) Of the \$8.7 billion, \$2.9 billion (or 33 percent) is indirect costs excluded from cost recovery efforts under EPA's current regulations. Another \$1 billion (or 11 percent) is costs that EPA has indicated will probably not be pursued or has

<sup>3</sup>EPA lists its most serious hazardous waste sites on the NPL.

<sup>4</sup>EPA issues unilateral administrative orders—authorized by CERCLA section 106—to require responsible parties to undertake a removal or remedial action.

identified as probably unrecoverable, mainly because responsible parties either cannot be identified or cannot pay for their portion of the cleanup costs. The remaining 55 percent—\$4.8 billion, represented by the shaded portion in figure 2—is potentially recoverable from responsible parties.<sup>5</sup>

**Figure 2: Accounting for \$8.7 Billion in Superfund Costs Through Fiscal Year 1993**



Note: Because of rounding, the percentages do not add to 100.

Source: GAO's presentation of EPA's data.

According to EPA's data, as of the end of fiscal year 1993, the agency had achieved agreements with responsible parties or won court orders to recover \$1.2 billion (or 14 percent) of the \$8.7 billion.<sup>6</sup> The agency is also

<sup>5</sup>Because of rounding, the percentages do not add to 100.

<sup>6</sup>EPA actually collected \$725 million of the \$1.2 billion, meaning that it collected only 8 percent of the \$8.7 billion in expended costs.

seeking an additional \$1.5 billion through litigation, including \$271 million in bankruptcy claims. The remaining \$2.1 billion in costs has not yet been addressed by EPA for a number of reasons: For example, in some cases the agency is still identifying the responsible parties at a site, or the site is in the early stages of cleanup and the agency cannot yet act to recover the costs. An unknown portion of the \$2.1 billion will not be recovered because partial settlements have been made with responsible parties or because financially viable parties will not be located.

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## Several Factors Account for Low Recoveries

Cost recoveries have been limited by several factors, most of them within EPA's control. EPA has recognized some of these limiting factors for years but has failed to act on them. The problems include the exclusion of large amounts of indirect costs from the recovery program, the lack of certain goals and information that would help EPA to better manage the program, and the low priority accorded the program.

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## EPA Excluded Some Costs From Recovery Efforts

EPA's low rate of cost recovery results in large part from the agency's decision to exclude \$2.9 billion in indirect costs from its recovery efforts. As we reported in 1989,<sup>7</sup> EPA established the policy early in the Superfund program that it would not seek certain indirect costs from responsible parties, including the costs of research and development and of the preliminary work to assess whether a site should be included in the Superfund program. According to a senior Superfund accounting official, EPA chose this conservative policy because at the time, there was uncertainty as to which indirect costs were recoverable under CERCLA. As a result, EPA and the Department of Justice (Justice) reached a legal consensus that while indirect costs were defensible, EPA was more likely to prevail in cost recovery actions if it used a conservative methodology. EPA estimates that as of fiscal year 1993, these excluded indirect costs accounted for \$2.9 billion, or one-third of its total Superfund expenditures.

EPA has continually delayed expanding its definition of recoverable costs. A 1987 study by a contractor concluded that EPA should include certain costs, such as the costs of research and development, in its definition of recoverable indirect costs. In August 1988, EPA's Comptroller proposed to account fully for all indirect costs. Although the proposal did not receive unanimous support within EPA and Justice, in June 1989 EPA's Administrator decided that the agency should initiate a rulemaking to

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<sup>7</sup>GAO/RCED-90-22, Dec. 14, 1989.

expand the types of costs that EPA would pursue in cost recovery actions. EPA expected to issue the new rule in July 1991.

EPA drafted a revised regulation on cost recovery and forwarded it to the Office of Management and Budget (OMB) for review on March 8, 1991. The new regulation proposed to make large amounts of the indirect costs recoverable, including the costs of research and development and site assessment. On the basis of comments from OMB, EPA revised the proposed rule and resubmitted it on November 25, 1991. OMB did not approve the publication of the draft regulation until the spring of 1992. EPA published its proposed regulation for comment in the Federal Register in August 1992. The public comment period was extended to November 4, 1992.

Industry representatives objected strongly to the proposed rule because it would have increased responsible parties' costs. As a result of these comments, EPA is considering changes to the rule. In addition, the agency has been reluctant to issue such a controversial rule while the Congress is considering the reauthorization of CERCLA. EPA officials could not predict when the rulemaking would be finalized.

This delay has resulted in a loss of potentially recoverable indirect costs for the government because cost recovery settlements have been made on the basis of the current definition of recoverable indirect costs. EPA estimates that indirect costs associated with sites for which settlements have already been reached totaled over \$400 million through fiscal year 1993. Additional delays in finalizing the rule will increase the government's loss of potentially recoverable indirect costs.

In addition to excluding certain indirect costs from recovery, EPA excluded hundreds of millions of dollars in contractors' program management costs. EPA uses funds from the Superfund program to pay contractors to conduct studies and undertake cleanup work at sites. While most of the contractors' costs are incurred at specific sites and charged to the accounts for those sites when incurred, some of the costs are for activities not specific to the sites. Typically, these costs are for program management; that is, the costs associated with the contractors' overall management of efforts that cannot be attributed to a specific site. Some of these costs are only incurred in the first year or two of the contract, such as "start-up" costs or payments for equipment that is to be used throughout the life of the contract.

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EPA's delay in developing a process for allocating these program management costs to sites also resulted in a loss to the government. Although the agency began to develop such a process in 1987, it did not actually implement the process until April 1993. By then, these program management costs totaled \$689 million. However, an estimated \$144 million of this amount could not be allocated for recovery because it was associated with sites for which settlements had already been reached. After subtracting the \$144 million in unallowable costs, \$545 million remained to be allocated. EPA has allocated \$230 million of this amount to individual sites and is working toward allocating the remaining costs.

A senior Superfund accounting official explained that EPA spent 5 years determining how to allocate program management costs to individual sites for cost recovery. He attributed the delay partly to EPA's wish to write an allocation methodology that was not highly labor-intensive and that would be defensible if challenged in court and partly to the fact that EPA did not assign a high priority to the project.

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### Other Factors Contribute to Low Rate of Cost Recovery

The absence of useful management goals and the information necessary to track progress also contribute to EPA's low rate of cost recovery. EPA listed its cost recovery program as a material weakness in the agency's 1992 and 1993 Federal Managers' Financial Integrity Act (FMFIA) reports and has begun to make improvements, but additional opportunities remain.

### Program Goals

EPA has established some limited goals for the cost recovery program in its agencywide goal-setting system. For example, one goal is for the regions to undertake a certain number of "administrative actions," such as using early negotiations to achieve cost recovery settlements with responsible parties. In addition, the cost recovery unit at EPA headquarters has established an annual goal for the regional offices to take action at sites where the statute of limitations on cost recovery is about to expire.

However, these goals do not provide sufficient direction for the program. First, EPA's goal of undertaking a specific number of administrative actions is unambitious; it allows the agency to easily meet its target even though the actual progress achieved is limited. For example, EPA regions have consistently met their targets for administrative actions, meeting 242 percent and 321 percent of their targets in fiscal years 1991 and 1992, respectively. More importantly, these targets simply measure the number of actions taken, not the progress EPA is making in recovering its cleanup costs.

Furthermore, while EPA's goal is to act to recover costs before the statute of limitations expires,<sup>8</sup> the agency does not have a goal that encourages early action on cases. The longer EPA waits to take action, the greater the likelihood that evidence will be lost or that the financial condition of the responsible parties will deteriorate, thus compromising EPA's ability to recover the cleanup costs. EPA's guidance encourages the regions to take cost recovery action within 12 months after a removal is completed and 18 months after the construction of the remedy is initiated at a remedial site. However, because EPA has not translated these procedural requirements into program goals, the agency is not actively monitoring each case to determine whether the deadlines are being met. EPA also has no goal for recovering any specific dollar amount or percentage of the recoverable costs.

Although GAO and internal reviewers at EPA have reported in the past on the lack of progress in the cost recovery program and have stressed the importance of goal-setting and strategic planning for managing the program, EPA has not responded. For example, in our December 1989 report, we found that EPA needed to set measurable, long-term program goals and determine what resources it needed to achieve them. In a June 1989 report,<sup>9</sup> a former EPA Administrator said that EPA would identify goals for the cost recovery program by February 1990 and communicate them to the Congress and the public. However, EPA did not establish these goals. In addition, while the cost recovery unit at EPA headquarters has considered establishing goals for taking early action on cost recovery cases and recovering specified percentages of costs, the agency, as discussed below, has never given a high priority to implementing such goals.

### EPA's Management Information

EPA has also not developed enough management information to evaluate its efforts to recover costs. Specifically, EPA does not have adequate information on the recoverability of many of its costs or its success in cost recovery negotiations. Additionally, the agency cannot routinely produce reports on the status of cost recovery efforts because the information needed is not available in its information systems.

According to EPA officials, an accurate count of unrecoverable costs is important both for judging the success of the cost recovery efforts and for forecasting future recoveries for budgeting purposes. Nevertheless, EPA

<sup>8</sup>According to EPA's records on cases in which the costs exceeded \$200,000, in fiscal year 1993, two cases were lost as a result of the statutes of limitations.

<sup>9</sup>A Management Review of the Superfund Program, U.S. Environmental Protection Agency (Washington, D.C.: June 1989).

officials acknowledge that the agency's major management report about the program does not present an accurate picture of unrecoverable costs. Specifically, the report does not fully disclose the amount of costs that cannot be recovered because they were spent at orphan sites<sup>10</sup> or sites at which only partial recoveries are possible.

EPA's policy is to write such costs off on the agency's books as soon as it is determined that they cannot be recovered. EPA's report understates these unrecoverable costs because regional officials are reluctant to expend the considerable resources they say are needed to formally write these costs off.

We discussed with headquarters and regional officials the possibility of making it easier to recognize unrecoverable costs by establishing a reporting category for "potentially unrecoverable" costs. In assigning costs to this category, EPA would not be required to formally determine that the costs should be written off. Such a procedure could help the agency value its outstanding costs and assess the success of its cost recovery program. Officials generally agreed that this less-formal procedure would be useful.

As we reported previously,<sup>11</sup> EPA also lacks information important for managing the program on another issue: the success of its cost recovery negotiations with responsible parties. EPA does track the number and value of the settlements achieved by its regional offices. However, the agency does not track the amount of funds its regions estimated they could reasonably obtain from responsible parties in their negotiations or the amount of funds they waived in negotiations. Without such information, the agency is unable to determine what proportion of costs were excluded from recovery during negotiations, why these costs were excluded, or how successful the negotiations were—that is, what portion of the government's target was achieved.

Finally, EPA officials said that they could not regularly produce reports showing the recovery status of all Superfund costs because information on the costs expended is contained in one data system and information on the costs recovered is contained in another data system that is not fully compatible with the first system. For example, one data system tracks information for entire sites, while the other system tracks data for segments of sites.

<sup>10</sup>An orphan site is one for which no financially viable responsible party can be located.

<sup>11</sup>GAO/RCED-91-144, July 18, 1991.

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In a June 1993 report, EPA's Deputy Administrator noted that "there has not been a system-wide reconciliation between the two systems, and as a result, it is very difficult to combine data from the two systems to obtain a full report for cost recovery activities." According to EPA accounting officials, the agency is working to better integrate the two systems.

### Low Priority of Program

The cost recovery program has historically been given a low priority by EPA. In our 1989 report, we warned that a backlog of cost recovery cases was developing and that more staff were needed to address this backlog. According to officials we contacted in EPA's regions and in the cost recovery unit at headquarters, resource constraints continue to be a primary problem in the cost recovery program. For example, both headquarters and regional officials told us that resource constraints have forced EPA to plan its program around taking action before the statute of limitations expires, as opposed to meeting the time frames for early action described in EPA's guidance.

The lack of priority given to the program was also reported by EPA officials who participated in focus groups for a report by EPA's Office of Inspector General (OIG).<sup>12</sup> These officials stated that taking enforcement actions to compel responsible parties to undertake cleanups is considered a higher priority than recovering the costs of cleanups led by EPA. Therefore, the cost recovery program often lacks the support or resources needed, and upper management does not consider the program as critical to cleaning up the environment as other areas of the Superfund program. Other program areas, these officials concluded, are therefore better supported than cost recovery. Cost recovery officials also told us that they believe additional resources for cost recovery would be cost-effective; that is, EPA would more than recoup the costs expended.

The low priority assigned to the program also helps to explain EPA's failure to follow through on previous commitments and the agency's inaction on proposals to improve the program, as highlighted above and in previous reports by GAO and EPA's OIG.<sup>13</sup>

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<sup>12</sup>Assessment of Financial Management in the Environmental Protection Agency (EPA/OIG-EISFG3-11-0026-4400042, Mar. 31, 1994).

<sup>13</sup>For example, GAO/RCED-90-22, Dec. 14, 1989; Followup Review of EPA's Cost Recovery Actions Against PRPs (EPA/OIG-EISJG0-11-0022-0400036, Sept. 25, 1990); and Whether EPA Has Maximized the Use of PRPs to Effect Superfund Site Cleanups (EPA/OIG-EISJE2-02-0063-3100152, Mar. 31, 1993).

## EPA Is Making an Effort to Improve the Program

Despite the low priority historically assigned to the cost recovery program, EPA's management has recognized the need to take some action to address problems in the program. In fiscal years 1992 and 1993, the agency identified the cost recovery program as a material weakness in its report to the President under the requirements of FMFIA. Under FMFIA, federal agencies identify major concerns that need their attention. Additionally, in a plan EPA developed for improving the Superfund program, improving the effectiveness of the cost recovery program was included as one of 17 administrative initiatives. The plan, known as the Superfund Administrative Improvements Implementation Plan, lists three major actions for improving the effectiveness of the cost recovery program. We have already mentioned two of these actions: the agency's (1) effort to better integrate the data systems that provide management information for the cost recovery program and (2) decision to issue the new regulation on cost recovery. However, as discussed earlier, EPA has not set a timetable for adopting the final rule.

The third action is intended to reduce litigation expenses through an increased use of alternative dispute resolution techniques.<sup>14</sup> However, since EPA has used these techniques primarily in cost recovery cases, this initiative may benefit the cost recovery program as well as reduce litigation expenses.

## CERCLA's Current Restrictions on Interest Rates Limit Recoveries

In addition to recovering from responsible parties a greater portion of the costs it expends, EPA could recover more interest on these costs if certain provisions of CERCLA were modified. CERCLA currently restricts interest charges on the amounts due from responsible parties in two ways. First, it permits interest to accrue from the date that funds are spent or the date that payment is demanded, whichever is later. This provision results in the loss of substantial interest, since EPA often waits several years after funds are expended to demand repayment. For example, we reported in 1991<sup>15</sup> that in one settlement in fiscal year 1989, EPA's Region V sought to recover \$81,287 in interest that had accrued from the date the region demanded payment. However, the region could have sought \$322,414—or almost four times as much—if interest had begun to accrue on the date the funds were expended. On a broader basis, we estimated that in 1990, EPA could have accrued about \$80 million in interest on expenditures in fiscal year 1989.

<sup>14</sup>Alternative dispute resolution, which includes mediation and arbitration, involves the use of neutral third parties to help resolve disputed issues.

<sup>15</sup>GAO/RCED-91-144, July 18, 1991.

Second, CERCLA mandates that EPA accrue interest on its program costs at the government's borrowing rate, which is lower than the commercial lending rates. We estimated in our report that this limit reduced the interest accrued in 1990 on fiscal year 1989 settlements by about \$25 million. Furthermore, this amount in effect represents a subsidy to responsible parties that leave their cleanups to the government. While the responsible parties that borrow money for cleanups have to obtain financing from lenders at the commercial rates, the parties that reimburse EPA are charged interest at the government's lower borrowing rate. Precedents for charging interest higher than the government's borrowing rate are found in other federal programs. For example, the Internal Revenue Service charges 3 percent over the government's borrowing rate on late tax payments.

In our 1991 report, we recommended that to enable EPA to more fully recover its costs, the Congress amend CERCLA to allow the agency to accrue interest from the date that the funds are expended and to charge an interest rate equivalent to the commercial lending rates.

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## Conclusions

EPA's low rate of recovery can mainly be attributed to the exclusion from recovery efforts of billions of dollars in indirect costs. However, EPA is not certain when it will issue its new regulation on cost recovery or which indirect costs will be included. In addition, EPA's goals for the program are insufficient, stressing the number of administrative actions taken rather than the timeliness of the action taken on cases or the actual costs recovered. With better information about the accomplishments of its program, EPA could ensure more timely and effective recovery efforts.

Although resource constraints have been and continue to be an issue, further improvements to the cost recovery program—such as issuing the new cost recovery rule and improving management information—depend to a larger extent on increased attention and commitment from EPA's management. The agency has begun to show some increased commitment and attention by designating the cost recovery program as a material weakness in its 1992 and 1993 FMFIA reports. While some improvements in the program, such as taking earlier action on cases, may require additional resources, program officials contend that the actions taken would be cost-effective.

Additionally, changing CERCLA's limits on interest rates would yield millions of dollars to the federal government and eliminate a subsidy to

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responsible parties. We previously recommended that the Congress amend CERCLA to (1) mandate that interest accrue on EPA's costs from the date that funds are expended and (2) allow EPA to charge an interest rate equal to the current commercial lending rates. We continue to believe that these changes are needed.

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## Recommendations

To ensure maximum recovery of EPA's cleanup costs from the parties responsible for these costs, we recommend that the Administrator of EPA (1) expedite the issuance of the regulation on indirect costs, (2) establish goals for early action on cases and for the percentage of costs to be recovered, and (3) develop better information on the recoverability of costs and the success of settlement negotiations.

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## Agency Comments

We discussed our findings with EPA's cost recovery and financial management officials, including the acting chiefs of EPA's cost recovery and Superfund accounting branches, and we incorporated their comments where appropriate. While these officials generally agreed with the facts presented in our report and with the need to elevate the priority of the cost recovery program, they emphasized the difficulty of providing additional resources to the program in the current budget climate. As requested, we did not obtain written agency comments on this report.

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We conducted our work between September 1992 and September 1994 in accordance with generally accepted government auditing standards. Appendix III details our objectives, scope, and methodology.

As arranged with your office, unless you publicly announce its contents earlier, we will make no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies to other appropriate congressional committees; the Administrator, EPA; and the Director, Office of Management and Budget. We will also make copies available to other interested parties on request.

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Please call me at (202) 512-6112 if you or your staff have any questions.  
Major contributors to this report are listed in appendix IV.

A handwritten signature in black ink, consisting of a stylized, cursive script that appears to read 'Peter F. Guerrero'.

Peter F. Guerrero  
Director, Environmental  
Protection Issues

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**Abbreviations**

CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
EPA	Environmental Protection Agency
FMFIA	Federal Managers' Financial Integrity Act
GAO	General Accounting Office
NPL	National Priorities List
OIG	Office of Inspector General
OMB	Office of Management and Budget
RD/RA	remedial design and remedial action
RI/FS	remedial investigation and feasibility study

# Historical Settlements for Superfund Cleanups

Superfund cleanups include three main phases: (1) the removal phase, which typically consists of short-term cleanup actions; (2) the remedial investigation and feasibility study (RI/FS) phase, in which a site's wastes and cleanup options are evaluated; and (3) the remedial design and remedial action (RD/RA) phase, which involves long-term cleanup actions. Table I.1 shows the settlements made for Superfund cleanups in fiscal years 1980-93.

**Table I.1: Settlements for Superfund Cleanups, Fiscal Years 1980-93**

Dollars in millions

Fiscal year	Cleanup phase							
	Removal		RI/FS		RD/RA		Total*	
	No.	Dollars	No.	Dollars	No.	Dollars	No.	Dollars
1980	1	\$0.1	1	\$0.5	3	\$1.5	5	\$2.1
1981	4	5.7	0	0	5	54.0	10	60.1
1982	8	5.7	4	3.8	8	13.3	21	22.8
1983	12	10.3	7	1.4	9	90.5	33	107.3
1984	54	19.6	20	14.9	11	105.5	98	147.6
1985	68	32.4	43	31.8	21	140.2	132	204.4
1986	51	35.8	59	43.2	18	638.4	132	743.2
1987	39	14.0	69	72.2	17	121.3	126	207.5
1988	97	66.7	79	111.9	43	395.5	221	578.6
1989	98	67.1	60	55.3	90	817.4	248	939.7
1990	127	164.0	73	80.9	112	1,217.1	312	1,461.9
1991	115	129.5	37	41.2	111	1,230.9	263	1,401.6
1992	102	179.7	42	44.6	102	1,306.1	246	1,530.4
1993	86	118.5	13	15.7	92	776.2	191	910.4
<b>Total</b>	<b>862</b>	<b>\$849.1</b>	<b>507</b>	<b>\$517.4</b>	<b>642</b>	<b>\$6,907.9</b>	<b>2,038</b>	<b>\$8,317.6</b>

\*Totals may include cases that are not included by remedy or settlement type because the Environmental Protection Agency (EPA) categorizes them as unspecified.

Source: EPA.

# Historical and Projected Data on Cost Recoveries

Table II.1 shows the levels at which EPA recovered costs from fiscal year 1981 through fiscal year 1993. Table II.2 shows the levels at which the agency expects to recover costs from fiscal year 1994 through fiscal year 1999. EPA estimated future cost recovery levels by applying past trends in cost recoveries to the number of cases the agency believes it can support in the future. EPA has not projected the future value of settlements for cleanups conducted by responsible parties.

**Table II.1: Cost Recovery Levels, Fiscal Years 1981-93**

Fiscal year	Value of cost recovery settlements achieved	Portion of settlement actually collected
1981	\$58,500	<sup>a</sup>
1982	2,517,400	\$2,309,500
1983	4,791,100	356,300
1984	5,636,700	3,440,400
1985	23,063,100	7,925,800
1986	20,870,100	15,700,300
1987	43,364,300	18,866,500
1988	165,748,200	55,611,500
1989	122,144,900	66,526,700
1990	155,438,500	104,859,000
1991	196,355,900	83,648,500
1992	241,524,200	183,672,100
1993	221,752,100	181,724,600
<b>Total</b>	<b>\$1,203,265,000</b>	<b>\$724,641,200</b>

<sup>a</sup>Although EPA reached settlements for \$58,500 in this fiscal year, the funds were actually collected in subsequent years.

Source: EPA.

**Table II.2: Projected Cost Recovery Levels, Fiscal Years 1994-99**

Fiscal year	Projected value of cost recovery settlements achieved	Projected portion of settlements actually collected
1994	\$205,700,000	\$159,200,000
1995	128,700,000	147,900,000
1996	121,200,000	93,500,000
1997	89,000,000	88,200,000
1998	161,000,000	65,500,000
1999	161,000,000	116,300,000
<b>Total</b>	<b>\$866,600,000</b>	<b>\$670,600,000</b>

Source: EPA.

# Objectives, Scope, and Methodology

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In anticipation of a comprehensive reauthorization of the Superfund program, the Chairman, House Committee on Energy and Commerce, and the Chairman of its Subcommittee on Transportation and Hazardous Materials requested that we provide information on EPA's settlement and cost recovery programs and identify the factors that inhibit EPA from recovering costs expended on Superfund cleanups. In addition, we were asked to provide historical data on EPA's settlement and cost recovery programs.

We performed our work at EPA headquarters in Washington, D.C., and in EPA's Region II (New York City), Region III (Philadelphia), and Region V (Chicago). These regions had the highest total of cumulative disbursements in the Superfund program as of the end of fiscal year 1992. In addition, EPA officials told us that these regions represent a range of approaches to cost recovery.

To assess EPA's efforts to recover cleanup expenditures, we analyzed EPA's data bases and reports on cost recovery and reviewed EPA's actions in three EPA regional offices and at five regional Superfund sites for which costs could be recovered. We also interviewed federal and regional cost recovery officials and reviewed reports and studies on regional cost recovery programs. To provide historical and projected data on EPA's settlement and cost recovery programs, we interviewed cost recovery officials at EPA headquarters and requested the data.

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# Major Contributors to This Report

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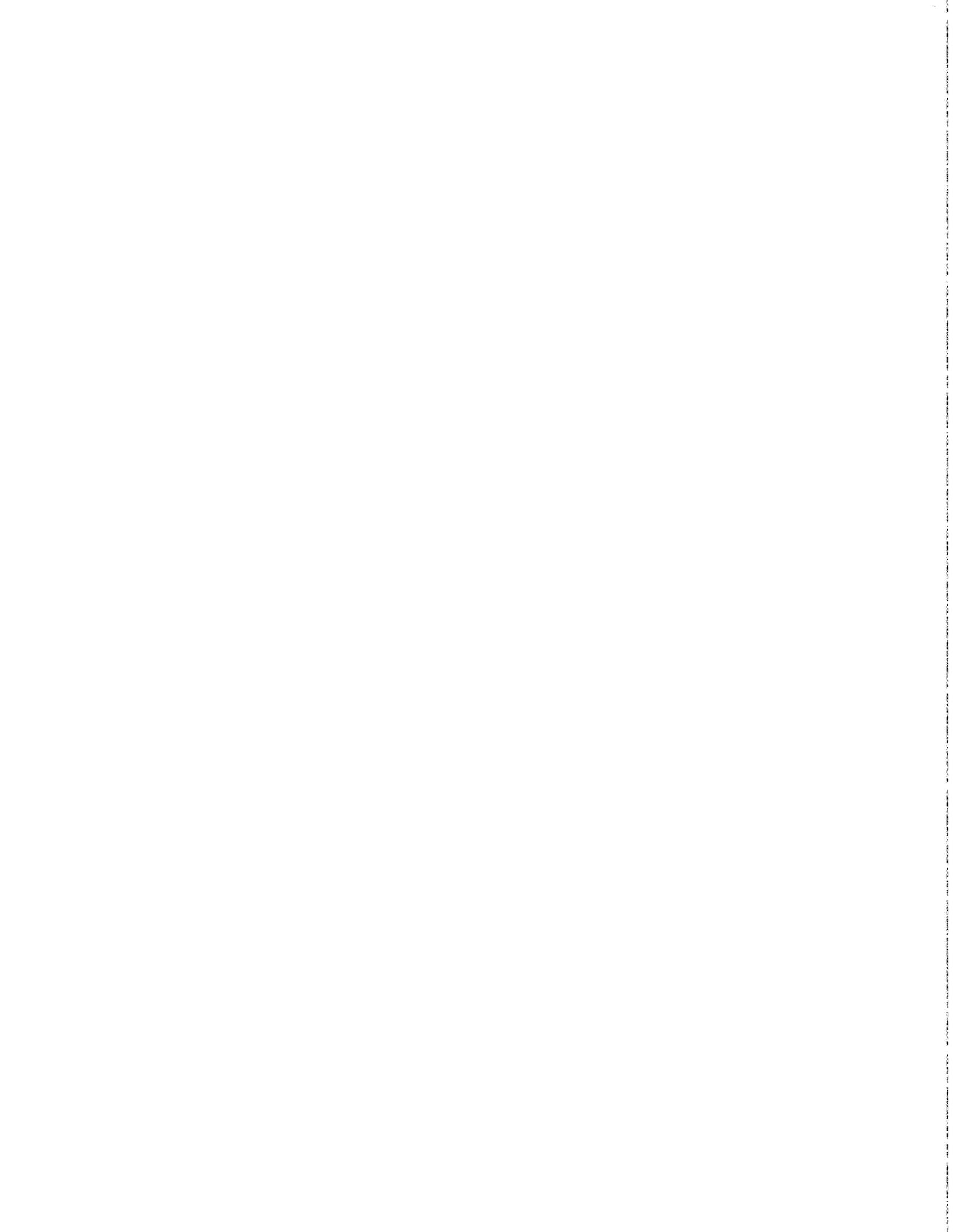
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